

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 6516 of 1996****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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NAVNITBHAI H SONI - Petitioner(s)**Versus****STATE OF GUJARAT & 1 - respondents(s)**

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Appearance :

MR JF SHAH for Petitioner(s) : 1, MR YATIN SONI for Petitioner(s) : 1,
MS MAITHILI MEHTA, ASST.GOVERNMENT PLEADER for respondents(s) : 1 -
2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 11/10/2006****ORAL JUDGMENT**

1. By way of this petition under Article 226 of the
Constitution of India, the petitioner has prayed
for an appropriate writ, direction and/or order
to regularize the period of petitioner's

suspension from 27.9.1988 to 31.3.1993 both days inclusive as duty for all purposes and to pay to the petitioner the difference of salary forthwith.

2. It appears from the record that earlier the petitioner has preferred Special Civil Application No.8352 of 1996 for the very relief and the learned Single Judge of this Court (Coram: C.K.Thakkar, J.) while allowing the said Special Civil Application, directed the respondents authorities to pass an appropriate order after affording an opportunity of hearing to the petitioner by passing a reasoned order regarding how the period of suspension is to be treated. Thereafter by communication dated 14.6.1996, the petitioner served with a impugned communication by the respondents authorities informing the petitioner that against the order of acquittal, an appeal is pending before this Court being Criminal Appeal No.1144 of 1994 and after the decision in the aforesaid Criminal Appeal, an appropriate decision will be taken.

Being aggrieved and dissatisfied with the same, the petitioner has preferred the present Special Civil Application for the aforesaid reliefs.

3. Shri Yatin Soni, learned advocate appearing for the petitioner has submitted that once this Court has directed the respondents authorities to pass an appropriate order after affording an opportunity of hearing to the petitioner, by passing a reasoned order regarding how the period of suspension is to be treated, the respondents authorities are bound to decide the same and taken an appropriate decision, however, they are not required to wait till the Criminal Appeal decided and disposed of by this Court.

4. Ms. Maithili Mehta, learned AGP has submitted that at the relevant time when the learned Single Judge of this Court passed an order in the aforesaid Special Civil Application No.8352 of 1995 on 6th February, 1996, probably it was not pointed out to this Court that the appeal being Criminal Appeal No.1144 of 1996 against

the order of acquittal, is already pending before this Court. It is submitted that if the attention of this Court would have been pointed out with regard to the pendency of the said Criminal Appeal then this Court might not have directed the respondents authorities to take an appropriate decision.

5. Be that as it may, the facts remains that this Court directed the respondents authorities to take an appropriate decision after giving an opportunity of hearing to the petitioner and to pass speaking order regarding how the period of suspension is to be treated. At the same time, it is also true that the Criminal Appeal No.1144 of 1994 against the order of acquittal is pending before this Court and the same has a direct bearing upon the dispute with regard to the period of suspension. However, considering the fact that the petitioner is aged about 71 years at present, the respondents authorities are directed to take an appropriate decision after giving an opportunity of hearing to the

petitioner, by passing a reasoned order regarding how the period of suspension is to be treated subject to the outcome of the Criminal Appeal No.1144 of 1994. If the decision is in favour of the petitioner then in that case, the said decision shall not be implemented till the Criminal Appeal No.1144 of 1994 is decided and disposed of. The respondents shall taken an appropriate decision as early as possible preferably within a period of 3 months from the date of receipt of this order. It will be open for the petitioner to move an appropriate application before this Court for early disposal of Criminal Appeal No.1144 of 1994 as at present the petitioner is aged about 71 years.

6. With these, the present Special Civil Application is disposed of. However, there shall be no order as to costs. Direct Service is permitted.

[M.R.SHAH, J.]